

2. REMARKS / DISCUSSION OF ISSUES

Claims 1-29 are pending in the application. Claims 1, 8, 14, 19 and 25 are independent claims.

Rejections Under 35 U.S.C. § 102

Claims 1-5, 7-17 and 19-29 were rejected under 35 U.S.C. § 102(e) as being unpatentable over *Taylor*. (U.S. Patent 6,209,004). For at least the reasons set forth below, Applicants respectfully submit that this rejection is improper and should be withdrawn.

Again, Applicants note that the art cited does not qualify as a reference under 35 U.S.C. § 102(e). For at least this reason, this rejection is improper and should be withdrawn.

A proper rejection of a claim under 35 U.S.C. § 102 requires that a single **prior art reference disclose each element of the claim**. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). **Anticipation** requires that **each and every element of the claimed invention be disclosed in a single prior art reference**. *See, e.g., In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). Alternatively, anticipation requires that **each and every element of the claimed invention be embodied in a single prior art device or practice**. *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). **For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention.** *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991). (Emphasis added in each instance.)

Claim 1 is drawn to a patient evaluation apparatus, and includes, inter alia:

“...a dynamic generator to create a marked up document based upon the form data, **wherein the dynamic generator is adapted to perform data display and configuration;** and

a transmitting module to combine the marked up document with medical data of a patient and transmitting the combined marked up document through a transmission channel, such that a user having a browser is capable of receiving and displaying the combined marked up document.”

Claims 8, 14, 19 and 25 include similar features.

As described in the filed application at page 10, paragraph [0020] “Generator 130 performs a dynamic code generating operation, whereby form data is retrieved from configuration module 150, and each HTML/ASP page document may be generated based thereon.” Moreover, this portion of the disclosure teaches that “Generator 130 may perform data display and data configuration. The data display is the visual representation of the data, i.e., color, size, and screen placement. The configuration of data is how the information is programmatically created. For example, activatable buttons (configuration of data) may be created in a HTML/ASP page document with corresponding text adjacent thereto in a specific location (data display).” Accordingly, document ***generation*** is effected in a dynamic manner; and the ***data may be configured and displayed*** via the dynamic generator. Stated somewhat differently, the dynamic generator additionally provides a graphic user interface (GUI) function to the system.

Applicants respectfully submit that the functions of data configuration and data display are neither taught nor suggested by the applied reference to *Taylor*.

Accordingly, Applicants respectfully submit that the reference to *Taylor* does not disclose at least the noted feature of claims 1; or the like features of 8, 14, 19 and 25. Therefore, Applicants respectfully submit the independent claims are patentable over the applied art. Moreover, claim 2-7, 9-13, 15-18 and 26-29, which depend from claims 1, 8, 14, 19 and 25, respectively, are also patentable over the applied art. Allowance is earnestly solicited.

Rejections Under 35 U.S.C. § 103

Claims 6 and 18 were rejected under 35 U.S.C. § 103(a) as being obvious over Taylor and Myers, et al. (U.S. Patent Publication Number 2002/0004806). As noted previously, claims 6 and 18 depend from independent claims 1 and 14, which for reasons set forth above are patentable over the applied art. As such, and while in no way conceding the propriety of this rejection, Applicants respectfully submit that this rejection is improper and should be withdrawn.

Conclusion

In view the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:
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